

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Jeremy Shay Sweat

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

South Carolina Department
of Corrections

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

**Complaint for Violation of Civil
Rights**

(Prisoner Complaint)

Case No. 2:19-cv-00307-JMC-MGB
(to be filled in by the Clerk's Office)

Jury Trial: ☐ Yes ☐ No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Jeremy Shay Sweat

All other names by which you have been known:

ID Number

326997

Current Institution

McCormick Correctional Insitut.

Address

386 Redemption Way
McCormick, South Carolina 29899**B. The Defendant(s)**

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

SCDCJob or Title
(if known)

Shield Number

Employer

Address

4444 Broad River road
Columbia, South Carolina 29201☐ Individual capacity☐ Official capacity

Defendant No. 2

Name

Job or Title
(if known)

Shield Number

Employer

Address

☐ Individual capacity

☐ Official capacity

Defendant No. 3

Name

Job or Title
(if known)

Shield Number

Employer

Address

☐ Individual capacity

☐ Official capacity

Defendant No. 4

Name

Job or Title
(if known)

Shield Number

Employer

Address

☐ Individual capacity

☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

- ☐ Federal officials (a *Bivens* claim)
- ☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

SCDC is denying me my right to practice my religion and they are denying us inmates adequate accommodations of food.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee

- ☒ Convicted and sentenced state prisoner
☐ Convicted and sentenced federal prisoner
☐ Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

They are still denying me my right to
practise and study my religion and denying
us adequate amounts of food.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

It started in April when I got transferred
to Kershaw lock up from Leiber C.I.

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

In Apr. when I was getting transferred
to Kershaw C.I. I asked the official if I could
take my bible with me and she said sure and after
she saw that it was a Wiccan Bible she snatched it
of my hand.

- and said that she was going to put it in my property box and on Jun 1, 2018 Kirschner C.I. refused to let me receive my wiccan catalog and they are still denying us inmates a adequate amount of food which falls under court Injuries and unusual punishment.

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

I'm asking the court to make SCDC change their policy regarding us not to be able to receive catalogs in lock up and to make SCDC start feeding us better so that we'll get proper protein that our body needs.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes
☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

They started denying me access to wiccan
material at Lieber C.I. and they still are
and they are still denying us adequate amount
of food.

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes
☐ No
☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes
☐ No
☐ Do not know

If yes, which claim(s)?

both claims

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes
☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

E. If you did file a grievance:

1. Where did you file the grievance?

I filed my grievance at Kershaw
correctional institution.

2. What did you claim in your grievance?

That ~~they~~ there was no reason why they
couldn't let us get more than one tray
and I asked them to change their policy
on us not being able to receive catalogs.

3. What was the result, if any?

They said that they could not change
their policy at that stage.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

I went all the way to the
administrative court.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

They did not send me my grievance regarding me not being able to receive wiccan material or catalogs but I'm attaching

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

- D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)
- _____
- _____

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: Jan. 8, 2019

Signature of Plaintiff Jeremy Shay Sweat

Printed Name of Plaintiff Jeremy Shay Sweat

Prison Identification # SCDC 326992

Prison Address McCormick Correctional Institution

McCormick SC 29899

City

State

Zip Code

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address

Telephone Number

E-mail Address



ROBIN L. BLUME
CLERK OF COURT

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

OFFICE OF THE CLERK
901 RICHLAND STREET
COLUMBIA, SOUTH CAROLINA 29201-2431
(803) 765-5816 FAX (803) 765-5960
www.scd.uscourts.gov

DIVISIONAL OFFICES

P. O. BOX 835
CHARLESTON, SC 29402
(843) 579-1401 FAX 579-1402

300 E. WASHINGTON STREET
ROOM 239
GREENVILLE, SC 29601
(864) 241-2700 FAX 241-2711

P. O. BOX 2317
FLORENCE, SC 29503
(843) 676-3820 FAX 676-3831

PLEASE TAKE NOTICE:

All 1983 packets come with the following forms:

- 1 Complaint Form
- 1 Informa Pauperis Application
- 1 Financial Certificate
- 1 Summons
- 1 USM-285

Please return the forms provided and if more forms are required, they will be sent to you at the direction of the assigned judge.

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA



FORMS FOR FILING CASES
PRO SE (Representing Yourself)
Prisoner

Revised March 25, 2016

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

INFORMATION FOR PRISONERS FILING AN APPLICATION TO PROCEED WITHOUT
PREPAYMENT OF FEES AND AFFIDAVIT (FORM AO 240) AND A FINANCIAL CERTIFICATE
WHICH ARE REQUIRED TO PROCEED *IN FORMA PAUPERIS* IN CIVIL RIGHTS
ACTIONS/*BIVENS* ACTIONS

Effective May 1, 2013, the costs for filing a lawsuit is \$350.00, plus an additional \$50.00 administrative fee, for a total of \$400.00 which must be paid when the complaint is filed. If you are unable to pay these costs, you may file an Application to Proceed without Prepayment of Fees and Affidavit (Form AO 240) which is a request to proceed *in forma pauperis*. All prisoners, other than pre-trial detainees, also must file a completed Financial Certificate.

A. General Information About Form AO 240:

1. The Form AO 240 (form attached) is a request for the court to determine whether you qualify for proceeding in a case without **prepayment** of the full filing fee as established in 28 U.S.C. § 1914 (currently \$400.00). Payment of the full filing fee is required by 28 U.S.C. § 1915. In order for your Form AO 240 to be considered by the United States District Court for the District of South Carolina, it must be typewritten or legibly handwritten. All information must be clearly and concisely written in the appropriate space on the form. Your original signature must be on the form you submit to the Court.
2. When your Form AO 240 is completed, you should mail THE ORIGINAL Form AO 240 along with the additional items listed in the Checklist, which is enclosed, to:

Clerk, U.S. District Court
District of South Carolina
901 Richland Street
Columbia, South Carolina 29201

If you are submitting your Form AO 240 and/or Financial Certificate in response to an order of this Court, you must put your case number on the documents and mail the ORIGINAL documents to the address provided in the order.

3. It is important to realize that even though a plaintiff may be permitted to proceed *without prepayment of the* filing fee, if the plaintiff fails to prevail in the case, costs may be taxed against him or her when the case is ended, as specified in 28 U.S.C. §§ 1915(f) and 1920; and *Flint v. Haynes*, 651 F. 2d 970 (4th Cir. 1981). Plaintiffs who are permitted to proceed *in forma pauperis* will not be assessed the \$50.00 administrative fee.

NOTE TO PRISONER (other than pretrial detainee): Filing the FINANCIAL CERTIFICATE is required under 28 U.S.C. § 1915(a)(2) in order for you to proceed *in forma pauperis*. THE FORM AO 240 IS NOT COMPLETE AND WILL NOT BE CONSIDERED BY THE COURT UNLESS THE FINANCIAL CERTIFICATE HAS BEEN PROPERLY COMPLETED.

B. General Information About the Financial Certificate:

1. A Financial Certificate (form attached) must accompany your Form AO 240. The Financial Certificate must be signed by you and be completed and signed by the appropriate officer having authority to review and calculate financial information in relation to your inmate trust account. *If you are detained*

in a county jail, city jail or local detention center, you do not have to submit the Financial Certificate.

2. If you do not meet the requirements for paying the filing fee in installments, then the full \$350.00 filing fee and \$50.00 administrative fee authorized by 28 U.S.C. § 1914 must accompany the civil rights complaint. If you cannot afford to pay the full filing fee, but you have sufficient funds (as calculated according to the Prison Litigation Reform Act) to pay an installment payment, then you must pay the first installment of the filing fee upon being granted *in forma pauperis* status, as computed on the Financial Certificate, at the time you file your complaint.
3. **A properly completed financial certificate is required for the court to consider the Form AO 240 submitted by a prisoner in the South Carolina Department of Corrections or Federal Bureau of Prisons.** DO NOT submit your own affidavit instead of the Financial Certificate, or your case may be delayed. The obligation to pay the filing fee in a case arises out of the filing of a case. *See* 28 U.S.C. § 1915.
4. To obtain a financial certificate disclosing how much money you have credited to your account(s) with the institution in which you are confined, you must sign your name and write your prisoner number (if you have one) on the lines provided at the top of the Financial Certificate (form attached). You should then submit only that page to the division/department that keeps the records of how much money you have in your account(s). (The name of that division/department varies depending on where you are being held, for example, "institutional services" - "accounting", etc.) Someone in that division/department will complete the remainder of the Financial Certificate and return it to you. It is then ready to be submitted to the court with the civil rights/*Bivens* complaint. You must submit the original Financial Certificate, not a copy.
5. The Financial Certificate must be current and signed by the authorized officer of the penal institution within six (6) months of its submission to the court. The Form AO 240 with the completed financial certificate, the accompanying civil rights complaint and all other papers listed on the Checklist must be mailed to the Clerk's Office TOGETHER.
6. When you receive the completed financial certificate, it will show whether you have sufficient funds to pay the full filing fee or whether you qualify for proceeding by paying the filing fee in installments. This determination is based on how much money is currently on deposit in your institutional account(s) and how much money to which you had access over the past six (6) months. Below is a line-by-line description of the information provided on the Financial Certificate:
 - (a) The first line shows the average monthly deposits to your prison trust account.
 - (b) The second line shows the average monthly balance in your prison trust account for the immediate past six (6) full months.
 - (c) The third line shows the total amount of money to which you have access in your institutional account(s) as of the date that the financial certificate was completed. Money that is not readily accessible is not included in this total; the institution or agency confining you may have a policy which requires that a certain minimum balance be maintained, and so the amount shown on the third line would only include an amount in excess of the required minimum.
 - (d) The fourth line shows the initial installment payment of the filing fee.

CHECKLIST

When a civil rights case from a state, local or federal prisoner is received, the Office of the Clerk of Court shall determine whether the case is in proper form. The term "in proper form" means that the Clerk of Court has received:

- (1) A complaint with your original signature on the appropriate form or in a form substantially similar;
- (2) The full filing fee or an Application to Proceed without Prepayment of Fees and Affidavit (Form AO 240) requesting to proceed *in forma pauperis*;
- (3) A Financial Certificate form (from all prisoners except pre-trial detainees) completed by the plaintiff and by an officer or employee of the institution where the plaintiff is confined or of the prison system in which the plaintiff is confined;
- (4) A separate Form USM-285 for each defendant sued if the plaintiff is proceeding *in forma pauperis* (Note that the plaintiff **must** provide information sufficient to identify the defendant(s) on the Form(s) USM-285. The United States Marshal cannot serve a defendant that is not properly identified, and defendants that are not served may be dismissed as parties to a case.);
- (5) A separate summons form for each defendant sued ***or*** one summons listing all defendants and their addresses;

If you need additional space on any of the forms, you may submit additional pages. The plaintiff must use letter-sized paper [8 x 11 inch] and write or type text on one side of a sheet of paper only. Do not write or type on both sides of any sheet of paper. Do not write to the edge of the paper, but maintain one inch margins on the top, bottom and sides of each paper submitted.

*Note to Inmate: If you are detained in a county jail, city jail, or local detention center, you do not have to submit the Financial Certificate. You **must** submit the Form AO 240.*